

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

UNITED STATES OF AMERICA,

Case Nos. 06-CR-0100 (JNE)

Plaintiff,

ORDER

v.

PABLO BAZALDUA,

Defendant.

Defendant Pablo Bazaldua pleaded guilty to possession of methamphetamine with intent to distribute and was sentenced to 189 months' imprisonment. The sentencing range established by the United States Sentencing Guidelines for Bazaldua's offense was subsequently lowered, and the Court reduced Bazaldua's term of imprisonment to 168 months. Bazaldua now seeks a further reduction in sentence. *See* ECF No. 71.

The Court, however, does not have authority to again reduce Bazaldua's sentence. Bazaldua is not claiming that his sentence was imposed in violation of the Constitution or federal law, as would be necessary to invoke 28 U.S.C. § 2255,¹ or that his sentence is the result of "arithmetical, technical, or other clear error," as would be necessary to invoke Fed. R. Crim. P. 35(a), or that his sentence is a result of "clerical error," as would be necessary to invoke Fed. R. Crim. P. 36. The Director of the Bureau of Prisons has not made a motion pursuant to 18 U.S.C. § 3582(c)(1)(A), nor has the government brought a motion pursuant to Fed. R. Crim.

¹The case primarily relied upon by Bazaldua in his motion for a reduction in sentence, *United States v. Holloway*, 68 F. Supp. 3d 310 (E.D.N.Y. 2014), involves the invocation of § 2255 as a basis for relief, albeit in unusual circumstances. Bazaldua's previous attempt at availing himself of § 2255 was found to be untimely. *See* ECF No. 69.

P. 35(b). Finally, Bazaldua does not contend that, in the time since his sentence was first reduced, the applicable sentencing range has once again been lowered pursuant to 28 U.S.C. § 994(o), as would be necessary to invoke 18 U.S.C. § 3582(c)(2). Bazaldua's motion is therefore denied.

ORDER

Based on the foregoing, and on all of the files, records, and proceedings herein, IT IS HEREBY ORDERED THAT defendant Pablo Bazaldua's motion for reduction in sentence [ECF No. 71] is DENIED.

Dated: February 16, 2017

s/ Joan N. Ericksen

Joan N. Ericksen

United States District Court Judge